

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JOHN COSTANZO JR. and  
MANUEL RECIO,

Defendants.

Case No. 22 Cr. 281 (JPO)

**DECLARATION**

Amber Donner, Attorney at Law, declares the following under penalties of perjury:

1. I am an attorney admitted to practice in the Southern District of Florida and I am admitted Pro Hac Vice in this case. I am co-counsel of record for Defendant Manuel Recio.

2. I submit this declaration in support of Mr. Recio's (i) motion to suppress evidence derived from the wiretap of a cellphone and from subsequent search warrants, or for a hearing pursuant to 18 U.S.C. § 2518(10) and *Franks v. Delaware*, 438 U.S. 154 (1978) and (ii) to dismiss multiplicitous counts of the Indictment pursuant to Federal Rule of Criminal Procedure 12(b)(3)(B)(ii) and the Double Jeopardy Clause of the Fifth Amendment.

3. I have attached certain Rule 16 discovery received in this case, plus other materials, that provide the basis for Mr. Recio's motion, as Exhibits A – F, as follows:

- a. Exhibit A is the July 1, 2019, Search Warrant Affidavit sworn out by FBI Special Agent Christopher Delzotto. [REDACTED]
- b. Composite Exhibit B are the search warrant affidavits sworn out by law enforcement subsequent to the Delzotto Search Warrant Affidavit:

- c. Exhibit B-1 is the August 1, 2019, Title III Reapplication Affidavit Re Target Cellphone 2 ([REDACTED] subscribed to Mr. Recio). [REDACTED]  
[REDACTED]
- d. Exhibit B-2 is the September 3, 2019, Title III Reapplication Affidavit Re Target Cellphone 2 ([REDACTED] subscribed to Mr. Recio).  
[REDACTED]
- e. Exhibit B-3 is the September 19, 2019, Affidavit Re [REDACTED].  
[REDACTED]
- f. Exhibit B-4 is the September 19, 2019, Affidavit Re Cell Site Data Re Target Cellphone 1 (Miami Criminal Defense Lawyer), Target Cellphone 2 (Special Agent Costanzo's phone) and Target Cellphone 3 ([REDACTED] subscribed to Mr. Recio). [REDACTED]
- g. Exhibit B-5 is the October 3, 2019, Affidavit Re Cell Site Data Re Target Cellphone 1 ([REDACTED] subscribed to Mr. Recio). [REDACTED]  
[REDACTED]
- h. Exhibit B-6 is the November 1, 2019, Affidavit Re Cell Site Data Re Target Cellphone 1 (Special Agent Costanzo's phone) and Target Cellphone 2 [REDACTED]  
[REDACTED] subscribed to Mr. Recio). [REDACTED]
- i. Exhibit B-7 is the November 12, 2019, Affidavit Re Target Cellphone 1 ([REDACTED]  
[REDACTED] subscribed to Mr. Recio). [REDACTED]
- j. Exhibit B-8 is the April 7, 2020, Affidavit Re [REDACTED].  
[REDACTED]
- k. Composite Exhibit C are materials from the government discovery:

- l. Exhibit C-1 is the Interview of Retired DEA Agent on April 12, 2019.  
[REDACTED]
- m. Exhibit C-2 is a summary of the Giglio debriefing of CI-1 on July 11, 2019.  
[REDACTED]
- n. Exhibit C-3 is the 2016 [REDACTED] furniture receipt plus a screen shot of a government spreadsheet reflecting that the subpoena return was made by October 7, 2019. [REDACTED]
- o. Exhibit C-4 is the 2019 [REDACTED] furniture receipt plus a screen shot of a government spreadsheet reflecting that the subpoena return was made by September 16, 2019. [REDACTED]
- p. Exhibit C-5 are the Bank Account-1 bank statements and related records.  
[REDACTED]
- q. Exhibit C-6 is a summary of the Interview of Retired DEA Agent on June 11, 2019. [REDACTED]
- r. Exhibit C-7 is a summary of a recorded conversation between CI-1 and Miami Criminal Defense Attorney on April 23, 2019. [REDACTED]
- s. Exhibit D is the September 2016 Office of Inspector General Audit of the Drug Enforcement Administration's Management and Oversight of its Confidential Source Program.
- t. Exhibit E is the Transcript of Hearing on June 1, 2020, in *United States v. Bruce Bagley*, No. 19-cr-765-JSR (S.D.N.Y. Oct. 24, 2019).
- u. Exhibit F is the Declaration of Manuel Recio.

Dated: March 13, 2023  
New York, New York

Respectfully submitted,

s/Amber Donner  
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*Counsel for Manuel Recio*